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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,327	11/13/2003	Daniel Craven	P-US-PR-1091	1986
7590	12/13/2004			<b>EXAMINER</b>
Michael P. Leary Group Patent Counsel Black & Decker Corporation, Mail Stop TW199 701 E. Joppa Rd Towson, MD 21286			DURAND, PAUL R	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 12/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/712,327	RAVEN ET AL.
Examiner	Art Unit	
Paul Durand	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11/13/03 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings appear to be informal and for examination purposes only. Additionally a "Prior Art" label is missing from Figure 1. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2,3,5,8 and 15 rejected under 35 U.S.C. 102(b) as being anticipated by Bausch (US 4,588,910).

In regard to claim 1, Bausch discloses the invention as claimed including electric motor "M", first actuator in the form of first switch 35, second actuator in the form of second switch 36, trigger 2, reversing lever 9, located from the switch unit, and linkage arrangement 26 (see Fig. 1-3,6 and C3,L4 – C4,L59).

In regard to claims 2 and 3, Bausch discloses the invention as claimed including forward and reverse member 9, located on a portion of the tool which can be seen by the user and on an upwardly portion of the tool (see Fig. 1-3 and 6).

In regard to claim 5, Bausch discloses the invention as claimed including linkage 26 pivotally punted at 30 (see Figs. 3 and 6).

In regard to claim 8, Bausch discloses the invention as claimed including a closed end of the motor housing located at the rear end (see fig.2)

In regard to claim 15, Bausch discloses the invention as claimed including power member in the form of trigger switch 2 (see Fig.2).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6,7,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bausch.

In regard to claims 6 and 7, Bausch discloses the invention substantially as claimed except for the location of the linkage. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have located the linkage on the motor housing next to the motor, since it has been held that rearranging parts of an invention involves only routing skill in the art. *In re Japiske*, 86 USPQ 70.

In regard to claims 13 and 14, Bausch discloses the invention substantially as claimed except for the linkage being comprised of plural arms instead of a single arm. However, the examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the linkage with two arms, or essentially a hollow portion in the middle of a single structure for the purpose of preventing interference of parts during assembly.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bausch in view of Becker et al (US 6,199,642).

Bausch discloses the invention substantially as claimed except for the reverse member being located on an upward face of the tool. However, Becker teaches that it is old and well known in the art to provide a reverse switch in the form of reversing cap 22 which is located on an upper face of the tool and power member in the form of trigger 14, which is located on a downward portion of the tool for the purpose of efficiently operating a tool (see Fig.1 and C2,L38-65). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Bausch with the switch and trigger arrangement as taught by Becker for the purpose of efficiently operating a tool.

9. Claims 9,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bausch in view of Dibbern et al (US 4,684,774).

Bausch discloses the invention substantially as claimed except for the pivoting member mounted on a boss at the rear of a tool. However, Dibbern teaches that it is old and well known in the art to provide an adjusting member 62, which rotates longitudinally to a tool motor, mounted on a bearing boss 21 and fixing boss 23 which attaches rear cover and limits the movement of the adjusting member 62 for the purpose of operating and reducing the size of a tool (see Figs. 2,11,13 and C5,L21-37). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Bausch with the switch arrangement as taught by Dibbern for the purpose of operating and reducing the size of a tool.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bausch in view of Schell et al (US 5,738,177).

Bausch discloses the invention substantially as claimed except for the housing being formed as a jam pot housing. However, Schell Dibbern teaches that it is old and well known in the art to provide a housing formed from a jam pot design for the purpose of increasing the ease of manufacture (see Fig.1 and C5,L29-44). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Bausch with the housing as taught by Schell for the purpose of increasing the ease of manufacture.

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bausch in view of Grossmann et al (US 4,342,931).

Bausch discloses the invention substantially as claimed except for the safety mechanism which prevents the reverse member from moving while the tool is in operation. However, Grossmann teaches that it is old and well known in the art to provide an power switch arrangement which prevents the slide 28 from moving during operation for the purpose of preventing damage to a tool (see Figs and C8,L62 – C9,L13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Bausch with the safety device as taught by Grossmann for the purpose of preventing damage to a tool.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Markle et al, Moores, Schuda et al, Broghammer et al and Cooper et al have been cited to show devices having similar structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
December 6, 2004



EUGENE KIM  
PRIMARY EXAMINER